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8 *Attorneys for Defendants Wilson-McShane Corporation*

9 **UNITED STATES DISTRICT COURT**

10 **DISTRICT OF NEVADA**

11  
 12 GLEN LERNER INJURY ATTORNEYS, a  
 13 Nevada Corporation,

CASE NO.

14 Plaintiff,  
 15 v.  
 16 LAKE MEAD EMERGENCY PHYSICIANS,  
 17 LLC, a Nevada Limited Liability Company;  
 CMRE FINANCIAL SERVICES, INC., a  
 18 California Corporation; NORTH VISTA  
 HOSPITAL, INC., a Delaware Corporation;  
 ORSOSITO, LIMITED LIABILITY COMPANY,  
 19 a Nevada Limited Liability Company d/b/a  
 COMPLETE CARE MEDICAL CENTER;  
 20 JAGET, LTD., a Nevada Corporation d/b/a  
 SPINAL REHABILITATION CENTERS; CHW  
 21 NEVADA IMAGING COMPANY, LLC, a  
 22 Nevada Limited Liability Company d/b/a  
 NEVADA IMAGING CENTERS;  
 23 HEALTHCARE SYSTEMS, INC., a Washington  
 24 Corporation d/b/a HSI; AGATA-VENGER  
 PARTNERSHIP, LLP, a Nevada Limited  
 25 Liability Partnership d/b/a WESTERN  
 REGIONAL CENTER FOR BRAIN AND SPINE  
 26 SURGERY; CLARK COUNTY COLLECTION  
 SERVICE, LLC, a Nevada Limited Liability  
 27 Company; SUNRISE MOUNTAINVIEW  
 HOSPITAL, INC., a Nevada Corporation; WEST  
 28 VALLEY IMAGING LIMITED PARTNERSHIP,

**PETITION FOR REMOVAL**

1 a Nevada Limited Partnership; NEVADA  
2 CREDICO, INC., a Nevada Corporation d/b/a  
3 QUANTUM COLLECTIONS; CENTENNIAL  
4 PAIN RELIEF NETWORK, INC., a Nevada  
5 Corporation d/b/a CENTENNIAL SPINE &  
6 PAIN; MOUNTAIN REHABILITATION  
7 SERVICES; MOIHARWIN DIVERSIFIED  
8 CORPORATION, a Nevada Corporation d/b/a  
9 VEGAS VALLEY COLLECTION SERVICE;  
10 LAS VEGAS NEUROSURGERY  
11 ORTHOPAEDICS AND REHABILITATION,  
12 LLP, a Nevada Limited Liability Partnership;  
13 DESERT ORTHOPAEDIC CENTER, LTD., a  
14 Nevada Corporation; ORTHOPAEDIC MOTION,  
15 INC., a Nevada Corporation; CANYON  
16 MEDICAL BILLING, LLC, a Nevada Limited  
17 Liability Company; MED-CARE SOLUTIONS,  
18 LLC, a Nevada Limited Liability Company; NEW  
19 CENTURY REHABILITATION, LLC, Nevada  
20 Limited Liability Company d/b/a MATT SMITH  
21 PHYSICAL THERAPY; SDMI LIMITED  
22 PARTNERSHIP, a Nevada Limited Partnership  
23 d/b/a STEINBERG DIAGNOSTICS; KEY  
24 HEALTH MEDICAL SOLUTIONS, INC., a  
25 California Corporation; RED ROCK  
26 DIAGNOSTICS, a Nevada Limited Liability  
27 Company; BRIAN A. LEMPER, D.O., a Nevada  
28 Corporation; CARE REHAB AND  
ORTHPAEDIC PRODUCTS, INC., a Virginia  
Corporation d/b/a/ PROGENIX; JOSEPH J.  
SCHIFINI, M.D., LTD., a Nevada Corporation;  
RADAR MEDICAL GROUP, LLP, a Nevada  
Limited Liability Partnership; DIAGNOSTIC  
IMAGING OF SOUTHERN NEVADA LIMITED  
PARTNERSHIP, a Nevada Limited Partnership;  
INSTITUTE OF ORTHOPAEDIC SURGERY,  
LLC, a Nevada Limited Liability Company;  
NEVADA ORTHOPAEDIC & SPINE CENTER,  
LLP, a Nevada Limited Liability Partnership;  
JEFFREY D. GROSS, M.D., INC., a California  
Corporation d/b/a COMPREHENSIVE INJURY  
INSTITUTE; OASIS WELLNESS CENTER,  
LLC, a California Limited Liability Corporation;  
PAIN INSTITUTE OF NEVADA, INC., Nevada  
Corporation; JORGENSEN & KOKA, LLP, a  
Nevada Limited Liability Partnership d/b/a  
PRIMARY CARE CONSULTANTS; CARDIO  
VASCULAR PLUS, INC., a California

1 Corporation; NATIONWIDE CREDIT  
2 RECOVERY, a California corporation; TOM  
3 BROOKS LLC, a Nevada Limited Liability  
4 Company d/b/a TOM BROOKS PHYSICAL  
5 THERAPY & SPORTS MEDICINE; PRACTICE  
6 ADMINISTRATIVE CONSULTANTS, a  
7 California Corporation d/b/a COAST  
8 RADIOLOGY AND IMAGING; DIOGENES  
9 ANESTHESIA MEDICAL GROUP, INC., a  
10 California Corporation; NATIONAL INTRA-  
11 OPERATIVE MONITORING; PACIFIC  
12 HOSPITAL OF LONG BEACH; JOJASO  
13 MANAGEMENT, INC., a Nevada Corporation;  
14 PROGRESSIVE MOTION, INC., a Nevada  
15 Corporation; MEDICAL INVESTMENT, INC., a  
16 Nevada Corporation d/b/a PURE MEDICAL  
17 EQUIPMENT; VALLEY VIEW SURGERY  
18 CENTER, LIMITED PARTNERSHIP, a Nevada  
19 Limited Partnership d/b/a MEDICAL DISTRICT  
20 SURGERY; MISSION HEALTHCARE  
SERVICES, INC., a California Corporation; LAS  
VEGAS RADIOLOGY, LLC, a Nevada Limited  
Liability Company; MEDICAL STRATEGY  
MANAGEMENT, INC., a Nevada Corporation;  
LUKE R. WATSON, M.D., INC., a California  
Corporation; WILSON-MCSHANE  
CORPORATION, a Minnesota Corporation; ACS  
RECOVERY SERVICES, INC., an Illinois  
Corporation; HEALTH PLAN OF NEVADA,  
INC., a Nevada Corporation; DOES I-V; and ROE  
CORPORATIONS I-V;

Defendants.

21 Defendant Wilson-McShane Corporation (“Wilson”), on behalf of the Construction  
22 Industry and Laborers Health and Welfare Trust (the “Trust”), respectfully submits this Notice of  
23 Removal of the above-entitled action from the District Court of Clark County, Nevada to the  
24 United States District Court for the District of Nevada, pursuant to 28 U.S.C. §§ 1331, 1441(a),  
25 1446, and 29 U.S.C. § 1132(e), and states as follows:

26 On April 17, 2013, Plaintiff Glen Lerner Injury Attorneys filed a Complaint in  
27 Interpleader action against Wilson in District Court, Clark County, Nevada, styled as *Glen Lerner*  
28 *Injury Attorneys, Plaintiffs v. Lake Mead Emergency Physicians, LLC, et al., Defendants*, Case

1 No. A-13-680317-C, Dept. No. XIV, to, among other things, adjudicate the Trust's subrogation,  
 2 lien, repayment, trust and assignment rights stemming from health benefits paid by the Trust on  
 3 Dina Hamilton's behalf as a result of injuries suffered on January 5, 2007 ("the Incident").

4 On April 30, 2013, Wilson was served with a Summons and Complaint in the above  
 5 entitled action. A true copy of the Summons and Complaint are attached as Exhibits A and B.

6 At the time of the Incident, Ms. Hamilton was a participant in the Trust's health and  
 7 welfare benefit plan, providing health care benefits to its eligible participants and their eligible  
 8 dependents (the "Plan").

9 The Plan is an employee welfare benefit plan as defined under the Employee Retirement  
 10 Income Security Act of 1974, as codified at 29 U.S.C. § 1001, *et seq.* ("ERISA").

11 Removal of this case is proper because Congress has given exclusive jurisdiction to  
 12 Federal Courts to enforce terms of an ERISA Plan. ERISA § 502(e), as codified at 29 U.S.C. §  
 13 1132(e)(1) provides:

14 [T]he district courts of the United States shall have exclusive  
 15 jurisdiction of civil actions under this subchapter brought by the  
 16 Secretary or by a participant, beneficiary, fiduciary, or any person  
 17 referred to in section 1021(f)(1) of this title.

18 ERISA § 502(f), as codified at 29 U.S.C. § 1132(f) provides:

19 The district courts of the United States have jurisdiction, without  
 20 respect to the amount in controversy or the citizenship of the  
 21 parties, to grant the relief provided for in subsection (a) of this  
 22 section in any action.

23 All pleadings and papers that were filed and served on Wilson have been attached to this  
 24 Notice of Removal in accordance with 28 U.S.C. § 1446(a).

25 This Petition for Removal is filed with the District Court within thirty (30) days after  
 26 service of the Complaint on Wilson.

27 The undersigned attorney certifies that he has caused a copy of the original Notice of  
 28 Removal to be filed with the Clerk of the Clark County District Court, State of Nevada.

1 WHEREFORE, Wilson respectfully requests this Court to assume jurisdiction over the  
2 case herein, as provided by law.  
3  
4  
5

6 Dated this 21st day of May, 2013.

BROWNSTEIN HYATT FARBER SCHRECK, LLP

7 /s/ Bryce C. Loveland  
8

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17 *Attorneys for Defendants Wilson-McShane Corporation*

**CERTIFICATE OF SERVICE**

Pursuant to Federal Rule of Civil Procedure 5(b), I certify that I am an employee of Brownstein Hyatt Farber Schreck, LLP and that on this 21st day of May, 2013, I served a true copy of the foregoing **PETITION FOR REMOVAL** upon:

Justin G. Randall, Esq.  
GLEN LERNER INJURY ATTORNEYS  
4795 South Durango Drive  
Las Vegas, NV 89147  
[jrandall@glenlerner.com](mailto:jrandall@glenlerner.com)

*Attorney for Plaintiffs*

BY CM/ECF System.

**I declare under penalty of perjury that the foregoing is true and correct.**

/s/ Ebony Davis

An Employee of Brownstein Hyatt Farber Schreck, LLP

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